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Order 2001-8-5
Served: August 8, 2001



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
on the 3rd day of August, 2001

Essential Air Service at

POUGHKEEPSIE, NY

under 49 U.S.C. 41731 *et seq.*

Docket OST-2001-10101- 2

ORDER ALLOWING SUSPENSION OF SERVICE

Summary

By this order, the Department is taking no action to prevent Champlain Enterprises Inc., d/b/a CommutAir, operating as Continental Connection (CommutAir) from suspending all scheduled air service at Poughkeepsie as of August 12, 2001.

Background

On July 10, 2001, CommutAir filed a notice of its intent to suspend its unsubsidized scheduled air service between Poughkeepsie, New York, and Burlington, Vermont.

CommutAir states that because it provides service to Burlington, and not to Poughkeepsie's EAS designated hub of New York City, it bears no responsibility under the EAS Program to continue serving Poughkeepsie, and that there is no basis in law or policy for the Department to prevent CommutAir from terminating service after August 12. The carrier further states that it entered into service in the Poughkeepsie-Burlington market with the belief that it would be free to exit at its own discretion on the grounds that Burlington is not a designated EAS hub for Poughkeepsie.

CommutAir now provides three round trips each weekday between Poughkeepsie and Burlington with 19-seat Beech 1900 aircraft. According to the carrier, its decision to

discontinue service at Poughkeepsie is based solely on poor financial performance driven by a significant decrease in passenger traffic for the first and second quarters of 2001.

Essential Air Service Determination

Poughkeepsie's EAS determination was originally established on September 11, 1981, by the Civil Aeronautics Board in Order 81-9-62, and reconfirmed by the CAB in Order 84-3-68, March 16, 1984. Poughkeepsie's definition calls for at least two round trips each weekday and two over the weekend period to New York City.¹ Sufficient capacity is to be provided to accommodate 40 passengers in each direction each service day. Up to one-third of the seat requirement may be fulfilled by service to either Albany or Boston. In accordance with current essential air service guidelines, service is to be provided with aircraft having at least two engines, two pilots and 15 passenger seats.

Decision

After careful consideration, we have decided to allow CommutAir to suspend its service to Poughkeepsie. We reluctantly agree with CommutAir's contention that it is not subject to the notice provisions in the Department's Aviation Economic Regulations in 14 CFR Part 323. CommutAir is not a certificated air carrier and thus not subject to 14 CFR Part 323.

In addition, we see no practical or common sense reason to hold the carrier in at the community, nor any reason why the Department would consider paying subsidy for such service after the end of the notice period. A review of the most recent OAG Flight Guide indicates that there is substantial scheduled jet service at near-by Stewart International Airport in Newburgh, just 20 miles from downtown Poughkeepsie. This service includes: two nonstop round trips a day to Atlanta on ASA/Delta Connection; four a day to Chicago O'Hare on American Airlines; three a day to Cincinnati on Comair/Delta Connection; and one a day to Raleigh/Durham on Midway Airlines. Nonstop turboprop service is also available at Stewart to: Philadelphia on USAirways Express (five daily round trips); Pittsburgh on USAirways Express (one a day); and to Washington Dulles on United Express (four a day). At the time the CAB established Poughkeepsie's EAS determination in 1981, there was no scheduled air service at Newburgh.

Scheduled jet service is also available at Westchester County Airport in White Plains, 56 miles from downtown Poughkeepsie. That service includes daily nonstop jet service to Atlanta (3 daily roundtrips), Chicago (12), Cincinnati (3), Cleveland (4), Detroit (4), Minneapolis (2), and Pittsburgh (3). In addition, daily turboprop service is also available at Westchester County Airport to Baltimore (2 daily round trips), Boston (20), Buffalo (2) and Washington (17).

¹ During the 1980's, service to New York City (LGA and JFK) was provided by Command Airways. Command was purchased in 1988 by AMR, Inc., and operated as an American Eagle code-share carrier. In 1991, Command was merged into Flagship Airlines and the Poughkeepsie operations were moved to Stewart Air Force Base (now Stewart International Airport) some 15-20 miles away.

The proximity of alternative air service to Poughkeepsie, particularly the substantial service at Stewart including 10 jet departures a day, provides the community with access to the nation's air transportation system that far exceeds the two or three round trips a day with 19-seat aircraft typically guaranteed under the EAS Program.

If other service is in fact available when a carrier files notice to suspend its service, we first consider whether the other service can meet the community's need for access to the National Air Transportation System. With the multitude of additional services available at Stewart, we would find that the community's service is well above the levels that the EAS program is designed to maintain.

Before CommutAir suspends service at Poughkeepsie at the end of its notice period, however, we expect it to contact all passengers who hold reservations for flights that will be suspended, to inform them of the suspension and the availability of the other services at Stewart International Airport and Westchester County Airport, and to assist them in arranging alternate transportation.

This order is issued under authority delegated in 49 CFR 1.56a(f).

ACCORDINGLY,

1. We take no action to prohibit Champlain Enterprises Inc., d/b/a CommutAir, from suspending its scheduled air service at Poughkeepsie, New York, as of August 12, 2001;
2. This docket will remain open until further order of the Department; and
- 3 We will serve a copy of this order on the Mayor of Poughkeepsie, New York, the airport manager of the Poughkeepsie Airport, the Governor of New York, the Director of Aviation Services of the New York Department of Transportation, and CommutAir.

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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Area Map

